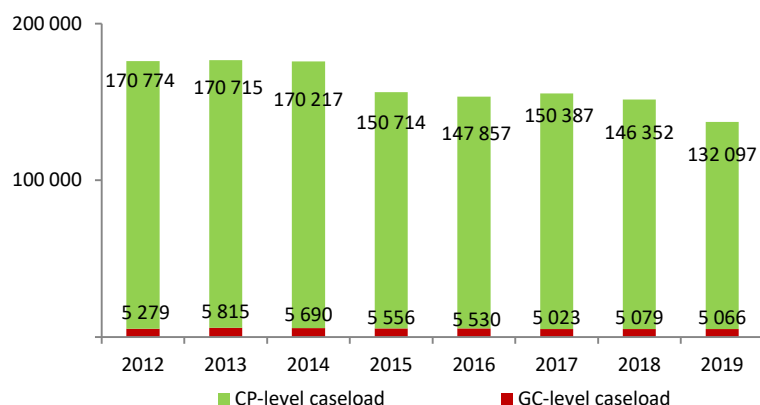




## Prosecutions and convictions

Figure 1 – Overall trend in prosecution<sup>(1)</sup>



Note: (1) Caseloads for CPs and GCs might overlap. Both include cases briefed out to private lawyers.

Figure 2 – Number of public prosecutors

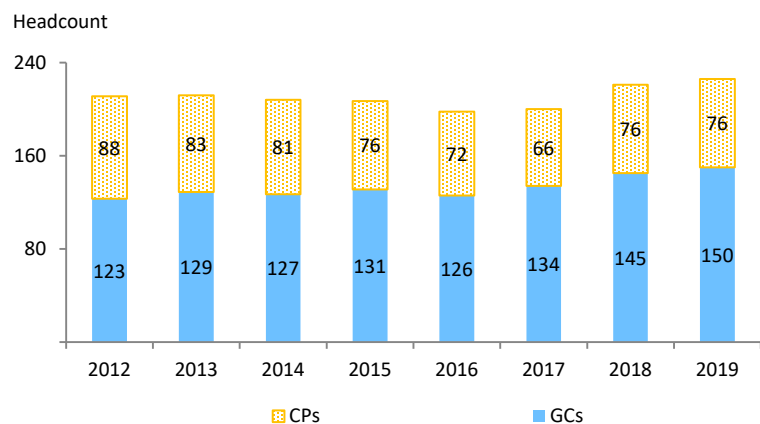
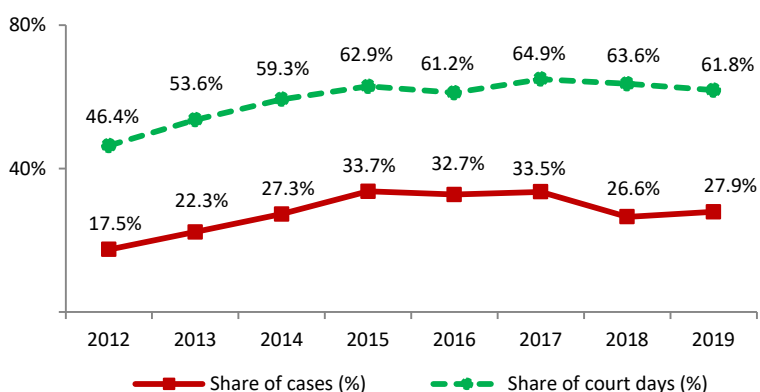


Figure 3 – Proportion of GC-level prosecutions briefed out to private lawyers



## Highlights

- In parallel with the 22% fall in the crime figure, the total number of criminal prosecutions conducted by the Department of Justice ("DoJ") declined by one-fifth in eight years by 2019 (**Figure 1**). At present, prosecutions at lower court (i.e. Magistrates' Courts ("MC")) are usually handled by Court Prosecutors ("CPs") mostly without full legal qualifications. However, for prosecutions at higher courts (i.e. District Court and Court of First Instance) and more complex cases at MC, they are conducted by Government Counsels ("GCs"). In 2019, 132 100 prosecutions or 96% of the overall caseload were CP-level cases, whereas 5 100 cases or 4% of caseload belonged to GC level.
- Notwithstanding the decreasing caseload, DoJ hired 22% more GCs in the Prosecution Division during 2012-2019, with an aim to "enhance the standards of advocacy and preparation in criminal cases". As such, the proportion of GCs in prosecutors rose from 58% to 66% during that period (**Figure 2**). DoJ plans to create 16 more GC posts for prosecution work in 2020-2021.
- Moreover, DoJ briefs out prosecutions to lawyers in private practice, mostly for more complicated and lengthy cases. In 2019, private lawyers took up 1 415 cases or 28% of the caseload in place of GCs, up 10.4 percentage points from 2012 (**Figure 3**). In terms of court days, private lawyers took up an even higher share of 62%, as they spent an average of 3.9 days on each case in 2019, far above that of 0.9 day for GCs.

## Prosecutions and convictions (cont'd)

Figure 4 – Conviction rates by court level <sup>(1)</sup>

	2012	2015	2019
<b>Overall conviction rate including guilty pleas (%)</b>			
- Magistrates' Courts	73.3	74.6	68.3
- District Court	91.4	93.4	92.9
- Court of First Instance	91.6	93.5	90.0
<b>Conviction rate after trial (%)</b>			
- Magistrates' Courts	47.6	52.0	54.6
- District Court	60.2	70.2	67.4
- Court of First Instance	69.6	68.8	60.7

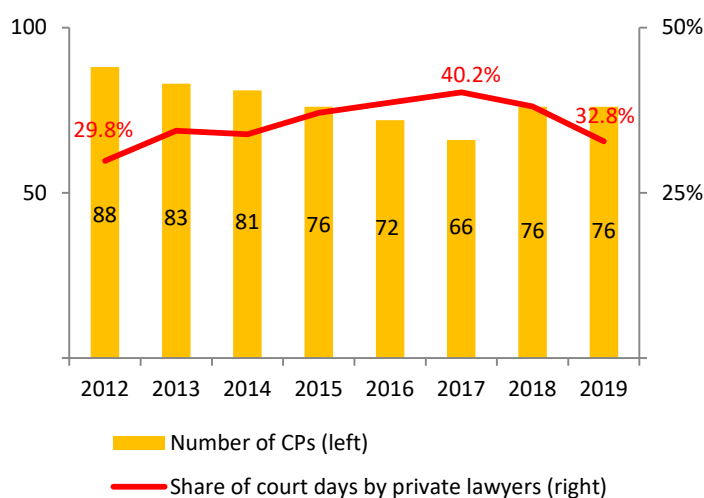
Note: (1) Conviction rates are calculated on the basis of the number of defendants.

Figure 5 – Overall conviction rates in selected places <sup>(1)</sup>

	Hong Kong 2019	Australia 2018-2019	England 2019-2020
Magistrate courts	68.3%	87.1%	83.5%
Higher courts	>90.0%	80.6%	81.5%

Note: (1) Calculation of conviction rates is defendant-based in Australia and case-based in England.

Figure 6 – Number of CPs at lower courts



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## Highlights

- Turning to the outcome of prosecutions, overall conviction rates (including guilty pleas) stood at a high level of at least 90% in higher courts over the past eight years (Figure 4). Excluding guilty pleas, conviction rates after contested trials at higher courts generally ranged between 60%-70%. By comparison, the conviction rate at lower courts was lower, at 68%-75% when including guilty pleas and at 48%-55% for contested trials.
- The lower conviction rate at lower courts in Hong Kong apparently contrasts with the situation seen in other places practicing common laws. Taking England and Australia as examples, overall conviction rates (including guilty pleas) stood at 83%-87% at lower courts, both higher than those of 80%-82% at higher courts (Figure 5).
- In relation to this matter, there have been concerns over the effectiveness of CP system. DoJ maintained that conviction rates should not be treated as a performance indicator, as its role is to ensure "a fair trial" instead of "a conviction at all costs". Yet it decided in 2008 to improve the system by engaging junior lawyers from private practice to handle more CP-related prosecution work. As such, the number of CPs tumbled by 25% amidst recruitment freeze and wastage during 2012-2017. Meanwhile, DoJ increased the share of brief-out cases at CP-level, which accounted for 40% of court days in 2017 (Figure 6).
- However, a review in 2016 concluded that outside lawyers were not interested in conducting simple cases on a long-term basis, and thus could not effectively replace a stable and experienced team of CPs. Acknowledging the need of an "appropriate-sized" team of CPs, DoJ hired 10 new CPs in August 2018. In addition, it undertakes to encourage CP to obtain legal qualifications. As at end-2018, 8 or one-tenth of CPs had qualifications as lawyers.

Data sources: Latest figures from Department of Justice, Hong Kong Police Force, Australian Bureau of Statistics, and Crown Prosecution Service.

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